

§ 748.1

15 CFR Ch. VII (1–17 Edition)

CFR, 2001 Comp., p. 783; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016).

§ 748.1 General provisions.

(a) *Scope.* In this part, references to the Export Administration Regulations or EAR are references to 15 CFR chapter VII, subchapter C. The provisions of this part involve requests for classifications and advisory opinions, export license applications, reexport license applications, and certain license exception notices subject to the EAR. All terms, conditions, provisions, and instructions, including the applicant and consignee certifications, contained in electronic or paper form(s) are incorporated as part of the EAR. For the purposes of this part, the term “application” refers to both electronic applications and the Form BIS-748P: Multipurpose Application.

(b) *BIS responses.* BIS will give a formal classification, advisory opinion or licensing decision only through the review of a properly completed application supported by all relevant facts and required documentation submitted in writing or electronically to BIS.

(c) *Confidentiality.* Consistent with section 12(c) of the Export Administration Act, as amended, information obtained for the purpose of considering license applications, and other information obtained by the U.S. Department of Commerce concerning license applications, will not be made available to the public without the approval of the Secretary of Commerce or of the Under Secretary for Industry and Security.

(d) *Electronic filing required.* All export and reexport license applications (other than Special Iraq Reconstruction License applications), License Exception AGR notifications, requests to authorize use of License Exception STA for “600 series” end items (which are currently submitted as export license applications) and classification requests and their accompanying documents must be filed via BIS’s Simplified Network Application Processing system (SNAP-R), unless BIS authorizes submission via the paper forms BIS 748-P (Multipurpose Application Form), BIS-748P-A (Item Appendix) and BIS-748P-B, (End-User Appendix). Only original paper forms may be used.

Facsimiles or reproductions are not acceptable.

(1) *Reasons for authorizing paper submissions.* BIS will process paper applications notices or requests if the submitting party meets one or more of the following criteria:

(i) BIS has received no more than one submission (*i.e.* the total number of export license applications, reexport license applications, license exception AGR notifications, and classification requests) from that party in the twelve months immediately preceding its receipt of the current submission;

(ii) The party does not have access to the Internet;

(iii) BIS has rejected the party’s electronic filing registration or revoked its eligibility to file electronically;

(iv) BIS has requested that the party submit a paper copy for a particular transaction; or

(v) BIS has determined that urgency, a need to implement U.S. government policy or a circumstance outside the submitting party’s control justify allowing paper submissions in a particular instance.

(2) *Procedure for requesting authorization to file paper applications, notifications, or requests.* The applicant must state in Block 24 or as an attachment to the paper application (Form BIS 748-P) which of the criteria in paragraph (d)(1) of this section it meets and the facts that support such statement. Submit the completed application, notification or request to Bureau of Industry and Security, U.S. Department of Commerce, 14th Street and Pennsylvania, NW., Room 2099B, Washington DC 20230.

(3) *BIS decision.* If BIS authorizes or requires paper filing pursuant to this section, it will process the application, notification or request in accordance with part 750 of the EAR. If BIS rejects a request to file using paper, it will return the Form BIS-748P and all attachments to the submitting party without action and will state the reason for its decision.

[61 FR 12812, Mar. 25, 1996, as amended at 70 FR 8249, Feb. 18, 2005; 73 FR 49329, Aug. 21, 2008; 75 FR 36499, June 25, 2010; 78 FR 13469, Feb. 28, 2013; 78 FR 22723, Apr. 16, 2013; 80 FR 51730, Aug. 26, 2015; 81 FR 64676, Sept. 20, 2016]

Bureau of Industry and Security, Commerce

§ 748.3

EFFECTIVE DATE NOTE: At 81 FR 87426, Dec. 5, 2016, § 748.1 was amended by removing the parenthetical phrase “(other than Special Iraq Reconstruction License applications)” from the first sentence of paragraph (d), effective Jan. 4, 2017.

§ 748.2 Obtaining forms; mailing addresses.

(a) You may obtain the forms required by the EAR from any U.S. Department of Commerce District Office; or in person or by telephone or facsimile from the following BIS offices:

(1) Outreach and Educational Services Division, U.S. Department of Commerce, 14th Street and Pennsylvania Ave., NW., Room H1099D, Washington, DC 20230, Tel: (202) 482-4811, Fax: (202) 482-2927, or

(2) Bureau of Industry and Security, Western Regional Office, U.S. Department of Commerce, 2302 Martin St., Suite 330, Irvine, CA 92612, Tel: (949) 660-0144, Fax: (949) 660-9347, or

(3) Bureau of Industry and Security, Western Regional Office, Northern California Branch, U.S. Department of Commerce, 160 W. Santa Clara Street, Suite 725, San Jose, CA 95113, Tel: (408) 998-8806, Fax: (408) 998-8677.

(b) For the convenience of foreign consignees and other foreign parties, certain BIS forms may be obtained at U.S. Embassies and Consulates throughout the world.

[61 FR 12812, Mar. 25, 1996, as amended at 69 FR 5690, Feb. 6, 2004; 70 FR 22249, Apr. 29, 2005; 72 FR 3945, Jan. 29, 2007; 73 FR 36, Jan. 2, 2008; 73 FR 49330, Aug. 21, 2008; 76 FR 40604, July 11, 2011; 78 FR 13469, Feb. 28, 2013; 79 FR 32626, June 5, 2014]

§ 748.3 Classification requests and advisory opinions.

(a) *Introduction.* You may ask BIS to provide you with the correct Export Control Classification Number (ECCN) down to the paragraph (or subparagraph) level, if appropriate. BIS will issue you a determination that each item identified in your classification request is either described by an ECCN in the Commerce Control List (CCL) in supplement no. 1 to part 774 of the EAR or not described by an ECCN and, therefore, an “EAR99” item. These classification determinations issued by BIS are not U.S. Government determinations that the items described

therein are “subject to the EAR,” as this term is defined in § 734.3 of the EAR. Those who request commodity classifications and advisory opinions should have determined that the items at issue are not subject to the exclusive export control jurisdiction of one of the other U.S. Government agencies listed in § 734.3(b) of the EAR. If requested, for a given end-use, end-user, and/or destination, BIS will advise you whether a license is required, or likely to be granted, for a particular transaction. Note that these responses do not bind BIS to issuing a license in the future. This type of request, along with requests for guidance regarding other interpretations of the EAR, is commonly referred to as an “Advisory Opinion.” The encryption provisions in the EAR require the submission of a classification request in accordance with § 740.17(d) of the EAR in order for certain items to be eligible for export and reexport under License Exception ENC (see § 740.17 of the EAR) or to be released from “ET” controls (see §§ 740.17(b)(2) and 740.17(b)(3) of the EAR).

(b) *Classification requests.* Submit classification requests in accordance with the procedures in § 748.1.

(1) Each Classification Request must be limited to six items. Exceptions may be granted by BIS on a case-by-case basis for several related items if the relationship between the items is satisfactorily substantiated in the request. Classification requests must be supported by any descriptive literature, brochures, precise technical specifications or papers that describe the items in sufficient technical detail to enable classification by BIS submitted as PDF files attached to the SNAP-R submission unless a paper submission is authorized pursuant to § 748.1 of the EAR.

(2) When submitting a classification request, you must complete Blocks 1 through 5, 14, 22(a), (b), (c), (d), and (i), 24, and 25 on the application. You must provide a recommended classification in Block 22(a) and explain the basis for your recommendation based on the technical parameters specified in the appropriate ECCN in Block 24. If you are unable to determine a recommended classification for your item,